EXHIBIT B INDEX OF MATTERS BEING FILED

1) ALL EXECUTED PROCESS

i. Return of Service of Process for Dolgencorp of Texas, Inc.

2) <u>ALL PLEADINGS AND ANSWERS TO PLEADINGS</u>

- i. Plaintiff's Original Petition
- ii. Plaintiff's First Amended Petition
- iii. Defendant Dolgencorp of Texas, Inc.'s Original Answer

3) <u>ALL ORDERS SIGNED BY THE STATE JUDGE</u>

i. No orders were entered.

4) <u>STATE COURT DOCKET SHEET</u>

5) <u>LIST OF ALL COUNSEL OF RECORD, INCLUDING ADDRESSES, TELEPHONE NUMBERS AND PARTIES REPRESENTED</u>

ATTORNEYS FOR PLAINTIFF:

Jesus A. Zambrano

Texas Bar No.: 24044947

Edgar E. Garcia

Texas Bar No.: 24096508 Zambrano Law Firm

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ATTORNEY FOR DEFENDANT:

Erik R. Wollam

Attorney-in-Charge

Texas Bar No.: 00788705

Federal ID: 17663

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7/8/2022 5:05 PM Hidalgo County Clerk Accepted by: Audrey Alvarez

CAUSE NO. CL-22-2139-J

JOSE RODOLFO CARDOZA	§	IN THE COUNTY COURT AT LAW
PLAINTIFF	§	#10
	§	
	§	
VS.	§	
	§	
DOLGENCORP OF TEXAS, INC.	§	HIDALGO COUNTY, TEXAS
DEFENDANTS	Ū	•

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

Party served: <u>DOLGENCORP OF TEXAS</u>, INC. THROUGH IT'S REGISTERED AGENT, <u>CORPORATION SERVICE COMPANY D/B/A LAWYERS INCORPORATING SERVICE</u> COMPANY

Address served: 211 E. 7th Street, Suite 620, Austin, Tx 78701-3218

County of Service: Travis

Method of Service: Certified Mail

Certified Mail Return Receipt Number: 70150640000260820250

Came to Hand Date: <u>June 17, 2022 at 6:00 p.m.</u> Date and time served: <u>July 8, 2022 at 6:39 a.m.</u>

Documents to be served: 1. CITATION 2. PLAINTIFF'S FIRST AMENDED PETITION

I am certified under order of Texas Supreme Court to serve process, including citations in Texas. My identification number and certification expiration date appear below. I am not a party to or interested in the outcome of this suit. My identification number and certification expiration date appear below. I received and delivered the Specified Documents to Defendant as stated above. All statements made herein are true. This return is verified or is signed under penalty of perjury.

My name is <u>Adriana Garcia</u>. My date of birth is <u>5/9/73</u>. My address is <u>PO Box 641, Mission, Tx 78573</u>. I declare under penalty of perjury that the foregoing, including the Return of Service, is true and correct.

Executed in Travis County, Texas, USA on June 8, 2022

Signature:

Adriana Garcia, PSC #: 12610 Expires: 4/30/2024



July 8, 2022

Dear Adriana Garcia:

The following is in response to your request for proof of delivery on your item with the tracking number: 7015 0640 0002 6082 0250.

Item Details

Status:

Delivered, Individual Picked Up at Postal Facility

Status Date / Time:

July 8, 2022, 6:39 am

Location:

AUSTIN, TX 78701

Postal Product: **Extra Services:**

First-Class Mail®

Certified Mail™

Return Receipt Electronic

Shipment Details

Weight:

3.0oz

Recipient Signature

Signature of Recipient:

Address of Recipient:

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely, United States Postal Service® 475 L'Enfant Plaza SW Washington, D.C. 20260-0004

6/9/2022 2:36 PM Hidalgo County Clerk

Accepted by: Gregorio Mata

	CAUSE NO	CL-22-2139-	J ——
JOSE RODOLFO CARDOZA Plaintiff,		§ §	IN THE COUNTY COURT
v.		& & & &	AT LAW NO
DOLLAR GENERAL INC., Defendant.		9 9 9	HIDALGO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff', JOSE RODOLFO CARDOZA complaining of Defendant, DOLLAR GENERAL INC., and for cause of action will respectfully show the Court as follows:

DISCOVERY CONTROL PLAN

Plaintiff intends to conduct discovery under Level 3 as set forth in Texas Rules 1. of Civil Procedure 190.4.

II. PARTIES AND SERVICE

- 2. Plaintiff, JOSE RODOLFO CARDOZA is an Individual and Texas resident who resides in Hidalgo County, Texas, and he may be served with any documents in this lawsuit by serving his attorneys of record named below.
- 3. Defendant, DOLLAR GENERAL INC., is a corporation, and may be served with process through its registered owner at 615 S Standard, San Juan, Hidalgo, Texas 78589 or wherever they may be found. Service on said Defendant can be affected by private process server.

Case 7:22-cv-00246 Document 1-2 Filed on 07/28/22 in TXSD Page 5 of 19Electronically Submitted
6/9/2022 2:36 PM
CL-22-2139-J
Hidalgo County Clerk
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III.
JURISDICTION AND VENUE

4. The subject matter in controversy is within the jurisdictional limit of this court.

the Texas Civil Practice and Remedies Code because all or a substantial part of the events

Venue in Hidalgo County is proper in this cause under Section 15.002(a)(1) of

or omissions giving rise to this claim occurred in Hidalgo County.

IV. FACTS

6. The subject matter of this suit is a slip and fall incident that occurred in or on

the Defendant's premises located at 615 S Standard St, San Juan, Texas 78589. On or

about July 6, 2021, Plaintiff, JOSE RODOLFO CARDOZA slipped on a slippery substance on

the floor and fell. There were no warning signs posted in the area to warn patron of this

dangerous condition. Defendant, DOLLAR GENERAL INC, were responsible for providing a

safe area for the Plaintiff, JOSE RODOLFO CARDOZA an invitee at the time of the accident.

7. Defendants and its employees were aware, or reasonably should have been

aware, that this unreasonably dangerous condition existed, yet made no efforts to reduce

or eliminate the unreasonably dangerous condition, nor did they warn Plaintiff about the

dangerous condition, as a result of the fall, Plaintiff, JOSE RODOLFO CARDOZA, sustained

serious and permanent personal injuries.

V.
NEGLIGENCE OF DOLLAR GENERAL INC.

8. Plaintiff alleges that upon the occasion in question, Defendant, DOLLAR

GENERAL INC., failed to use ordinary care by various acts and omissions in at least one or

more of the following ways:

5.

A. Failure to keep the premises reasonably safe for its customers;

2

6/9/2022 2:36 PM Hidalgo County Clerk Accepted by: Gregorio Mata

- B. Failure to reasonably and regularly inspect the premises for unreasonably dangerous conditions;
- C. Failure to reasonably and regularly inspect the premises for unreasonably dangerous conditions on areas known to regularly contain potential unreasonable dangers;
- D. Failure to ensure that their employees reduce or eliminate any unreasonably dangerous conditions:
- E. Failure to maintain policies for inspecting the premises for unreasonably dangerous conditions;
- F. Failure to enforce policies for inspecting the premise for unreasonably dangerous conditions;
- G. Permitting a dangerous condition, of which Defendant should have reasonably been aware, to exist for an unreasonable period of time;
- H. Failure to provide adequate warning to Plaintiff of all unreasonably dangerous conditions of which the Defendant had actual or constructive knowledge:
- Failure to recruit, select, and hire competent employees capable of locating, preventing, reducing, eliminating, and warning about unreasonably dangerous conditions;
- J. Failure to adequately train its employees in locating, preventing, reducing, eliminating, and warning about unreasonably dangerous conditions;
- K. Failure to adequately supervise their employees to ensure they are preventing, reducing, eliminating, and warning about unreasonably dangerous conditions; and
- L. Failure to terminate employees incapable of locating, preventing, reducing, eliminating, and warning about unreasonably dangerous conditions.
- 9. Each and all of the above stated acts and/or omissions, taken together or individually, constitute negligence and the same are a direct and proximate cause of the injuries and damages sustained by Plaintiff.

VI. COMPENSATORY DAMAGES

- 10. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff has suffered and incurred the following damages:
 - A. Reasonable medical care and expenses in the past;
 - B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
 - C. Physical pain and suffering in the past;
 - D. Physical pain and suffering in the future;
 - E. Physical impairment in the past;
 - F. Physical impairment which, in all reasonable probability, will be suffered in the future:
 - G. Loss of earnings in the past;
 - H. Loss of earning capacity which will in all probability, be incurred in the future;
 - I. Loss of Consortium in the past, including damages to the family relationship, loss of care, comfort, solace, companionship, protection, services, and/or physical relations;
 - J. Disfigurement in the past;
 - K. Disfigurement in the future;
 - L. Mental anguish in the past;
 - M. Mental anguish in the future; and
 - N. Cost of medical monitoring and prevention in the future.
- 11. Plaintiff has suffered losses and damages in a sum within the Court's jurisdictional limit, and for which this lawsuit is brought.

Accepted by: Gregorio Mata

VII. DEMAND FOR JURY TRIAL

12. Plaintiff demands a jury trial in this above styled and numbered cause.

VIII. PRAYER

PREMISES CONSIDERED, Plaintiff respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limit of the Court; exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

ZAMBRANO LAW FIRM

/s/Jesus A. Zambrano

JESUS A. ZAMBRANO

State Bar No. 24044947

EDGAR E. GARCIA

State Bar No. 24096508

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ATTORNEYS FOR PLAINTIFF

Electronically Submitted 6/14/2022 3:32 PM Hidalgo County Clerk Accepted by: Audrey Alvarez

CAUSE NO. CL-22-2139-J

JOSE RODOLFO CARDOZA Plaintiff,	§ §	IN THE COUNTY COURT
V.	& & &	AT LAW NO. <u>10</u>
··	3 9	71 BW No. <u>10</u>
	§	
DOLGENCORP OF TEXAS, INC.,	§	
Defendant.	8	HIDALGO COUNTY, TEXAS

PLAINTIFF'S FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, JOSE RODOLFO CARDOZA complaining of Defendant, DOLGENCORP OF TEXAS, INC., and for cause of action will respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3 as set forth in Texas Rules of Civil Procedure 190.4.

II. PARTIES AND SERVICE

- 2. Plaintiff, JOSE RODOLFO CARDOZA is an Individual and Texas resident who resides in Hidalgo County, Texas, and he may be served with any documents in this lawsuit by serving his attorneys of record named below.
- 3. Defendant, DOLGENCORP OF TEXAS, INC., is a business entity doing business in the state of Texas, and it may be served with process through its registered agent, Corporation Service Company d/b/a Lawyers Incorporating Service Company, at 211 E.7th Street, Suite 620 Austin, Texas 78701-3218 or wherever it may be found.

Electronically Submitted 6/14/2022 3:32 PM Hidalgo County Clerk Accepted by: Audrey Alvarez

III. JURISDICTION AND VENUE

- 4. The subject matter in controversy is within the jurisdictional limit of this court.
- 5. Venue in Hidalgo County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this claim occurred in Hidalgo County.

IV. FACTS

- 6. The subject matter of this suit is a slip and fall incident that occurred in or on the Defendant's premises located at 615 S Standard St, San Juan, Texas 78589. On or about July 6, 2021, Plaintiff, JOSE RODOLFO CARDOZA slipped on a slippery substance on the floor and fell. There were no warning signs posted in the area to warn patron of this dangerous condition. The Defendant was responsible for providing a safe area for the Plaintiff an invitee at the time of the fall.
- 7. Defendant and its employees were aware, or reasonably should have been aware, that this unreasonably dangerous condition existed, yet made no efforts to reduce or eliminate the unreasonably dangerous condition, nor did they warn Plaintiff about the dangerous condition, as a result of the fall, Plaintiff sustained serious and permanent personal injuries.

V. NEGLIGENCE OF DOLGENCORP OF TEXAS, INC.

- 8. Plaintiff alleges that upon the occasion in question, Defendant, DOLGENCORP OF TEXAS, INC., failed to use ordinary care by various acts and omissions in at least one or more of the following ways:
 - A. Failure to keep the premises reasonably safe for its customers;

- B. Failure to reasonably and regularly inspect the premises for unreasonably dangerous conditions;
- C. Failure to reasonably and regularly inspect the premises for unreasonably dangerous conditions on areas known to regularly contain potential unreasonable dangers;
- D. Failure to ensure that their employees reduce or eliminate any unreasonably dangerous conditions;
- E. Failure to maintain policies for inspecting the premises for unreasonably dangerous conditions;
- F. Failure to enforce policies for inspecting the premise for unreasonably dangerous conditions;
- G. Permitting a dangerous condition, of which Defendant should have reasonably been aware, to exist for an unreasonable period of time;
- H. Failure to provide adequate warning to Plaintiff of all unreasonably dangerous conditions of which the Defendant had actual or constructive knowledge;
- I. Failure to recruit, select, and hire competent employees capable of locating, preventing, reducing, eliminating, and warning about unreasonably dangerous conditions;
- J. Failure to adequately train its employees in locating, preventing, reducing, eliminating, and warning about unreasonably dangerous conditions;
- K. Failure to adequately supervise their employees to ensure they are locating, preventing, reducing, eliminating, and warning about unreasonably dangerous conditions; and
- L. Failure to terminate employees incapable of locating, preventing, reducing, eliminating, and warning about unreasonably dangerous conditions.
- 9. Each and all of the above stated acts and/or omissions, taken together or individually, constitute negligence and the same are a direct and proximate cause of the injuries and damages sustained by Plaintiff.

VI. RESPONDEAT SUPERIOR

10. At all relevant times herein, all of the agents, servants, or employees of

Defendants who are in any way connected to this suit were acting within the course and scope of their employment or official duties and in furtherance of the duties of their office or employment. Therefore, the acts or omissions of those agents, servants, or employees are attributable to Defendants and renders Defendants liable for all damages suffered by Plaintiff under the doctrine of *respondeat superior*.

VII. NEGLIGENCE OF DEFENDANT'S EMPLOYEES

- 11. Plaintiff alleges that upon the occasion in question, the Defendants' employees failed to use ordinary care by various acts and omissions in at least one or more of the following ways:
 - A. Failure to keep the premises reasonably safe for its customers;
 - B. Failure to eliminate any unreasonably dangerous conditions; and
 - C. Failure to give adequate warning to Plaintiff of all unreasonably dangerous conditions of which the employees had actual or constructive knowledge.
- 12. Each and all of the above stated acts and/or omissions, taken together or individually, constitute negligence and the same are a direct and proximate cause of the injuries and damages sustained by the Plaintiff.

VIII. COMPENSATORY DAMAGES

- 13. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff has suffered and incurred the following damages:
 - A. Reasonable medical care and expenses in the past;
 - B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
 - C. Physical pain and suffering in the past;
 - D. Physical pain and suffering in the future;

- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Loss of earnings in the past;
- H. Loss of earning capacity which will in all probability, be incurred in the future;
- I. Loss of Consortium in the past, including damages to the family relationship, loss of care, comfort, solace, companionship, protection, services, and/or physical relations;
- J. Disfigurement in the past;
- K. Disfigurement in the future;
- L. Mental anguish in the past;
- M. Mental anguish in the future; and
- N. Cost of medical monitoring and prevention in the future.
- 14. Plaintiff has suffered losses and damages in a sum within the Court's jurisdictional limit, and for which this lawsuit is brought.

IX. DEMAND FOR JURY TRIAL

15. Plaintiff demands a jury trial in this above styled and numbered cause.

X. PRAYER

PREMISES CONSIDERED, Plaintiff respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limit of the Court; exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code, together with pre-judgment interest (from the

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date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

ZAMBRANO LAW FIRM

/s/Jesus A. Zambrano
JESUS A. ZAMBRANO
State Bar No. 24044947
EDGAR E. GARCIA
State Bar No. 24096508
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McAllen, Texas 78501
Phone: (956) 627-0908
Fax: (956) 627-0762

ATTORNEYS FOR PLAINTIFF

CAUSE NO. CL-22-2139-J

JOSE RODOLFO CARDOZA	§	IN THE COUNTY COURT
	§	
V.	§	AT LAW NO. 10
	§	
DOLGENCORP OF TEXAS, INC.	§	HIDALGO COUNTY, TEXAS

DEFENDANT DOLGENCORP OF TEXAS, INC.'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF THE COURT:

Defendant, DOLGENCORP OF TEXAS, INC., files this Original Answer to the *Plaintiff's First Amended Petition* and would respectfully show the Court the following:

SPECIAL EXCEPTIONS

1. Defendant specially excepts because Plaintiffs have failed to properly state in any paragraph the amount of monetary relief sought pursuant to Rule 47 of the Texas Rules of Civil Procedure. Defendant asks this Court to order Plaintiffs to re-plead with the required specificity within fourteen days of the order of the same.

GENERAL DENIAL

- 2. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant denies all allegations contained in the *Plaintiff's Original Petition*, and in any amended or supplemental petitions which may be filed by Plaintiff after this date.
- 3. Defendant respectfully reserves the right to file an amended answer in this cause in the manner authorized by the Texas Rules of Civil Procedure.

AFFIRMATIVE DEFENSES

4. Defendant asserts by way of affirmative defense that at the time and on the occasion in question, Plaintiff Jose Rodolfo Cardoza ("Plaintiff") was negligent and such comparative fault was a proximate or the proximate cause of the event.

DEFENSES TO ECONOMIC DAMAGES

- 5. Answering further, without waiving the foregoing, Defendant asserts all provisions of Chapter 41 of the Texas Civil Practice & Remedies Code and all of its appropriate subsections which limit the amount of exemplary damages which may be awarded, if claimed, and limits recovery of medical expenses to the amount actually paid by or on behalf of the Plaintiff. Section 41.0105 not only limits the Plaintiff's recovery but also precludes evidence of expenses that neither the Plaintiff nor anyone acting on her behalf paid or are actually liable for paying. *Aaron Glenn Haygood v. Margarita Garza De Escabedo*, Dkt. 09-0377, (Tex. July 1, 2011), *affirming De Escabedo v. Haygood*, 283 S.W.3d 3 (Tex. App.—Tyler 2009).
- 6. Answering further, without waiving the foregoing, Defendant asserts the limitation on recovery set forth in Texas Civil Practice & Remedies Code section 18.091(a) and (b) which limits awards for loss of earning capacity, if made, to net loss after federal income tax. Tex. Civ. Prac. & Rem. Code Ann. §18.091.

DENIAL OF CONDITIONS PRECEDENT

7. Answering further, without waiving the foregoing, should Plaintiff assert that all conditions precedent to recovery have occurred, Defendant denies that all conditions precedent entitling Plaintiff to recovery have occurred. Specifically, Defendant has asserted a general denial and Plaintiff carries the burden of proof on all causes of action and the essential elements of each cause of action.

RULE 193.7 NOTICE

8. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Defendant gives actual notice to Plaintiff that any and all documents produced by Plaintiff in response to written discovery may be used against Plaintiff at any pre-trial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

DEMAND FOR JURY TRIAL

9. Defendant respectfully demands a jury trial of all issues in this cause pursuant to Tex. R. Civ. P. 216. Defendant hereby tenders the appropriate fee to the clerk of the court.

PRAYER

WHEREFORE, Defendant, DOLGENCORP OF TEXAS, INC., prays that:

- a. Plaintiff takes nothing by this suit and Plaintiff be discharged with his costs;
- b. On final hearing of Plaintiff's claims, the claims against Defendant be dismissed with prejudice; and
- c. Defendant recovers all costs, together with such other relief, both general and special, to which he may be justly entitled.

Respectfully submitted,

LUCERO | WOLLAM, P.L.L.C.

ERIK R. WOLLAM TBN: 00788705

159 Flat Rock

Wimberley, Texas 78676 Telephone: (512) 485-3500 Facsimile: (512) 485-3501

Email: ewollam@lucerowollam.com

ATTORNEY FOR DEFENDANT DOLGENCORP OF TEXAS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on the 28th of July, 2022, a true and correct copy of the foregoing was sent or delivered to all parties through counsel of record pursuant to Rule 21a TRCP.

<u>Via Electronic Service:</u> Jesus A. Zambrano Zambrano Law Firm 3900 N. 10th St, Ste 970 McAllen, Texas 78501

ERIK R. WOLLAM

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Location : All Courts Images

REGISTER OF ACTIONS

CASE No. CL-22-2139-J

Jose Rodolfo Cardoza VS. Dolgencorp of Texas, Inc.

 Case Type: Injury or Damage - Other (OCA)

Date Filed: 06/09/2022

Location: County Court at Law #10

PARTY INFORMATION

Defendant Dolgencorp of Texas, Inc.

Attorneys

Plaintiff Cardoza, Jose Rodolfo

Jesus A. Zambrano Retained 956-627-0908(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

06/09/2022 Original Petition (OCA)

Petition

06/10/2022 Citation Issued

DOLLAR GENERAL INC

06/14/2022 Amended

Amended Filing

06/17/2022 Citation Issued

DOLGENCORP OF TEXAS, INC

07/08/2022 Service Returned - Served

FINANCIAL INFORMATION

	Plaintiff Cardoza, Jose Ro Total Financial Assessmen Total Payments and Credit Balance Due as of 07/28/	nt s		366.00 366.00 0.00
06/09/2022 06/09/2022		Receipt # 2022-006966	Cardoza, Jose	358.00 (221.00)
06/09/2022 06/14/2022	State Credit Transaction Assessment			(137.00) 8.00
	EFile Payments from TexFile	Receipt # 2022-007130	Cardoza, Jose	(8.00)